

(2006) 07 JH CK 0065

In the Jharkhand High Court

Case No : Writ Petition (S) No. 3741 of 2002

Awadh Prasad

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 14-07-2006

Acts Referred:

Citation : (2006) 4 JCR 260

Hon'ble Judges : Permod Kohli, J

Bench : Single Bench

Advocate : D.K. Prasad and M.N. Sinha, for the Appellant; Suresh Kumar, J.C. to G.A, for the Respondent

Judgement

Permod Kohli, J.—Pursuant to selection made petitioner was appointed as Constable in the year 1997. It is alleged that selection was made after he cleared all the physical, educational and medical test. On joining the service, petitioner was deputed for training at Bokaro Arms Police Training Centre. On successful completion of the training, he was posted at Churchu Police Station in the district of Hazaribagh. While discharging his duty as a Constable, he was served with memo No. 1607 dated 1.6.2002 contained in office order No. 639 of 2002 dated 31.5.2002 whereby he was dismissed from service and thereafter relieved from 2.6.2002. It is termination of the petitioner which has been called in question in the present writ petition. Petitioner has referred to letters dated 26.10.1998 and No. 1476 dated 20.9.2001 written by K.A. Jacob, the then D.G.P., Bihar, Patna to Sri S.N. Biswas, Chief Secretary to Govt. of Bihar, Patna and to Umesh Narayan Panjiyar, Home Secretary, Bihar, Patna approving the appointment of Constables by the D.G.P. Sri S.K. Sexena during the year 1996-1997 and 1998. Based upon the above averments, it is stated that the impugned order terminating the service of the petitioner is illegal, invalid and also violative of principles of natural justice, thus, liable to be quashed.

2. I have perused the office order No. 639 of 2002 dated 31.5.2002 issued by Superintendent of Police, Hazaribagh wherein services of the petitioner have

been terminated on the basis of Home Department's letter dated 4.9.2000 and Deputy Inspector General (Human Rights), Bihar, Patna memo No. 6324/P-2 dated 20.9.2000 and memo No. 1593 dated 29.4.2002.

3. Respondents chose not to file any counter.

4. Petitioner was appointed in the year 1997 and his service came to be terminated on 1.6.2002 i.e. after the period of about five years. It is specifically alleged by the petitioner that he was not provided any opportunity of being heard nor any inquiry was held against him and there has been violation of principles of nature justice. In absence of counter of the respondents, these allegations are admitted to be correct. Petitioner has also placed on record the communication dated 26.10.1998 written by K.A. Jacob, the then D.G.P., Bihar, Patna to Sri S.N. Biswas, Chief Secretary to Govt. of Bihar, Patna. In this communication, it is mentioned that as many as 177 persons were appointed as Constables in different districts by Sri S.K. Sexena, the then D.G.P. in the year 1996-1998. Reference is also made to the memo dated 20.9.1998 of Accountant General, Bihar whereby reaction of D.G.P. was sought to the audit report pertaining to appointments made by Sri Sexena during his tenure as D.G.P. In the audit report, certain objections were raised regarding the appointment made by Sri Sexena which, inter alia, includes violation of provision of Rule 603 of Bihar Police Manual, non-observation of recruitment procedure etc. In this communication, D.G.P. justified the appointments having been made on the representation of different senior police officers and conforming to Rule 663 which, inter alia, prescribes height and other physical standards. It has come on record that as many as 177 persons were appointed as Constables including the petitioner. Fate of other similarly situated employees is not known.

5. As far the petitioner is concerned, he has not been communicated any reason for his termination except that his appointment has been declared illegal. There is nothing on record to show that any inquiry was held or show-cause notice issued to the petitioner seeking his explanation in respect to any deficiency in the appointment procedure or any other valid reason for rescinding the appointment. Hon'ble Supreme Court in the case of *Uptron India Limited Vs. Shammi Bhan and Another*, held as under:

15. Conferment of "permanent" status on an employee guarantees security of tenure. It is now well settled that the services of a permanent employee, whether employed by the Government, or Government company or Government instrumentality or Statutory Corporation or any other "Authority" within the meaning of Article 12, cannot be terminated abruptly and arbitrarily, either by giving him a month's or three months' notice or pay in lieu thereof or even without notice, notwithstanding that there may be stipulation to that effect either in the contract of service or in the Certified Standing Orders.

6. In view of the law laid down by the Supreme Court, order of termination is not justified and is hereby quashed. Consequently, respondents are directed to

reinstate the petitioner forthwith and grant him all consequential benefits except the salary for the period petitioner remained out of service. However, petitioner shall be entitled to notional benefit of increments and pay revision if any from the date of his joining the service. Respondents are at liberty to initiate action in accordance with law.